

Congress of the United States
House of Representatives
Washington, DC 20515

January 9, 2019

The Honorable Matthew Whitaker
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Acting Attorney General Whitaker:

I am in receipt of your response to my December 21 letter in which you offer to testify before the Committee on the Judiciary “on February 12, 2019 or February 13, 2019 . . . so long as the Department is at least two weeks removed from a partial government shutdown.”

I cannot accept your proposal. We are willing to work with you to identify a mutually identifiable date for your testimony, but we will not allow that date to slip past January 29, 2019—the day of the President’s scheduled address to Congress, when we know you will be in Washington.

As you know, it has been nearly 15 months since Attorney General Sessions testified before the Committee. It is past time for the Committee to conduct oversight of the Department, and I understood you to have committed to testifying before the Committee in January during our telephone call on November 30, 2018. We require your testimony—in January—on a number of pressing matters:

- We are preparing legislation on a wide range of issues that involve the Department of Justice, including bills that address voting rights, immigration, gun violence, the Violence Against Women Act, and foreign influence on the federal government.
- We have begun an inquiry into the circumstances, rationale, and impact of the Department’s decision to alter its litigation position relating to the constitutionality of the Affordable Care Act.
- We have questions about several recent efforts by the Administration that could have the effect of weakening federal protections for civil rights.


- We require an explanation for several apparently false statements by Administration officials about national security threats at the Southern border, including President Trump’s demonstrably false statement, during last year’s address to Congress, that “according to data provided by the Department of Justice, the vast majority of individuals convicted of terrorism and terrorism-related offenses since 9/11 came here from outside of our country.”
- We must discuss the impact of President’s near-daily statements attacking the integrity of the Department of Justice, the FBI, and Special Counsel Robert Mueller’s investigation.

In addition, I expect that Members will have a number of questions relating to your personal tenure at the Department of Justice. The public is entitled to know why you chose to disregard the advice of career ethics officials at the Department with respect to your oversight of the Special Counsel. Similarly, we are entitled to a clear explanation of the current line of responsibility for the supervision of the Special Counsel’s investigation.

Finally, with respect to the proposal that we delay your appearance until we are “at least two weeks removed from a partial government shutdown,” we refer you to the Department’s own guidance. In 1995, the Office of Legal Counsel *twice* determined that, in the event of a funding lapse, “the Department may continue activities such as providing testimony at hearings if the Department’s participation is necessary for the hearing to be effective.” (19 Op. O.L.C. 337, 338; *see also* 19 Op. O.L.C. 301). Your presence is certainly necessary to this hearing. Indeed, some of the most critical questions my colleagues may ask concern the impact of the shutdown on Department operations and personnel.

Thank you, and I look forward to your testimony on January 29, 2019.

Sincerely,


Chairman Jerrold Nadler
House Committee on the Judiciary

cc: The Hon. Doug Collins
Ranking Member, House Committee on the Judiciary